

REMARKS

Applicant respectfully requests reconsideration and continued prosecution of this application in view of the following remarks.

1. Status of the Claims

Claims 1-20 are pending in this application. Claims 1, 6 and 17 have been amended to clarify the invention, particularly with regard to the structure and configuration of the claimed brace. Support for these amendments is found, for example, at page 15, lines 10-15 of the original specification. No new matter has been added

2. 35 U.S.C. §102 Rejections

Claims 1-4, 6-7, 9-10 and 17 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,287,268 to Gilmour (Gilmour). Applicant respectfully traverses this rejection.

Gilmour discloses a knee brace 1 having a hinge 2 disposed to one side of the knee, arms 7 and 9 that extend across the front of the leg, and straps 15 and 16 that cross behind a person's knee. Sole Figure; col. 2, Ins. 28-30; col. 3, Ins. 14-17. The straps are preferably tensioned to "give ten to twenty degrees of flexion," col. 3, Ins. 18-19. Gilmour's straps 15 and 16 thus do not provide a corrective unloading force to a first knee compartment proximate a hinge of the brace, but rather only provide forces tending to flex the knee joint, and they do not cross proximate a second knee compartment that is opposite a first knee compartment proximate the hinge. Thus, Gilmour cannot anticipate or render obvious claims 1-4, 6-7, 9-10 and 17.

Gilmour differs greatly from the present invention according to independent claims 1 and 17, which is a knee brace and a method of using it for unloading pressure to a knee compartment of a person's knee, the knee brace having a hinge positionable proximate a person's first knee compartment, upper and lower leg supports, and knee straps for crossing proximate a person's opposing second knee

compartment and providing a corrective unloading force to the person's first knee compartment. For at least the foregoing reasons, Gilmour fails to anticipate or render obvious any of claims 1-4 or 17.

Gilmour also differs greatly from the present invention according to independent claim 6, which is a knee brace for providing a varus/valgus correction to a person's knee. As discussed above, Gilmour's knee brace only provides flexion and not a varus/valgus correction. See col. 3, Ins. 18-19. For at least the foregoing reasons, Gilmour fails to anticipate any of claims 6, 7, 9 and 10.

3. 35 U.S.C. §103 Rejections

a. Gilmour, in View of Davis, Does Not Disclose, Suggest or Provide a Reason for Developing a Knee Brace Of The Present Invention

Claims 5, 8, 11-14 and 18-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gilmour in view of U.S. Patent No. 5,421,810 to Davis et al. (Davis). Applicant respectfully traverses this rejection.

Davis teaches a hip brace comprising a pivot joint having intermeshing teeth, but does not disclose a knee brace, or for that matter any brace having a strap connecting an upper support to a lower support. See, e.g., Fig. 1; col. 2, Ins. 52-65. Therefore, Davis cannot supply the deficiencies of Gilmour, which fails to disclose a knee brace having a strap or straps configured to provide a corrective unloading force to a knee compartment adjacent a hinge of the brace, according to claim 1, configured to provide a varus/valgus correction to the wearer's knee, according to claim 6, or crossing proximate a second knee compartment opposite a first knee compartment adjacent a hinge of the brace, according to claim 17. The above reasoning thus applies with respect to independent claims 1, 6 and 17. Moreover, like claim 1, claim 13 also requires a brace that provides a corrective unloading force to a first knee compartment proximate a hinge of the brace. For at least the foregoing reasons, Gilmour in view of Davis fails to render obvious any of claims 5, 8, 11-14 and 18-20.

b. **Gilmour, in View of Davis and Castillo, Does Not Disclose,
Suggest or Provide a Reason for Developing the Knee Brace Of
Claims 15-16**

Claims 15-16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Gilmour in view of Davis and U.S. Patent No. 5,135,469 to Castillo (Castillo). Applicant respectfully traverses this rejection.

Castillo discloses a knee brace having a pair of hinges connecting a pair of upper struts to a pair of lower struts, col. 2, Ins. 17-21, the upper struts interconnected by first and second cuff members, and the lower struts interconnected by third and fourth cuff members, col. 2, Ins. 34-37. Castillo does not disclose a knee brace having a strap connecting an upper leg support to a lower leg support. Therefore, Castillo fails to supply the deficiencies of Gilmour and Davis with respect to independent claim 13, and for at least the reasons stated above, Gilmour in view of Davis and Castillo fails to render obvious either of claims 15-16, which depend from claim 13.

CONCLUSION

In view of the foregoing, claims 1-20 are in condition for allowance. An early indication of allowance is solicited.

Respectfully submitted,



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